

EXHIBIT N

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARLON CASTRO, OCTAVIO RANGEL,
MARTIN VASQUEZ, ALFREDO MARTINEZ,
RODOLFO MENDEZ, GERARDO ANGULO, JUAN
MARTINEZ, JOSE CERVANTES, SERGIO
SANCHEZ, ISRAEL SANCHEZ, MARTINE PEREZ,
GUILLERMO MENDOZA, OMAR CASTILLO, and
AMANDO MARTINEZ, individually and on behalf of
others similarly situated,

Plaintiffs,
-against-

SPICE PLACE, INC., SPICE AVE., INC.,
BANGKOK PALACE II, INC., SPICE CITY, INC.,
SPICE WEST, INC., KITLEN MANAGEMENT,
INC., JUTTANA RIMREARTWATE,
THANADHAM THANEESAENG SIRI, KARNDA
VAJIRABANJONG, KEVIN LEATHERS,
KITTIGRON LIRTPANARUK, YONGYUT
LIMLEARTVATE, and YUANYONG
RIMREARTWATE,

Defendants.

-----X
STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

Juan Martinez, being duly sworn, says:

1. I am a plaintiff in this matter and submit this affidavit in support of plaintiffs' motion for collective action and class certification.
2. I am a resident of Queens County, New York.
3. I have worked as a delivery boy, a food preparer, and a clean up person for the Spice restaurants, defendants in this lawsuit, from approximately May 2003 through April 2005, and February 2006 until the present date at various locations throughout New York City.

07 CV 4657 (RWS)(DFE)

AFFIDAVIT OF
JUAN MARTINEZ

**FLSA COLLECTIVE
ACTION**

Rule 23 Class Action

ECF Case

4. First, I was hired to work at the 60 University Place, New York location ("Spice University"), but because Spice operated at different locations throughout the city, I was also sent to work at the location at 199 8th Avenue, New York ("Spice Chelsea").

5. From approximately May 2003 through December 2003, my work schedule was from 11:00 am until midnight on weekdays at Spice University, and from 11:00 am to 1:00 am on weekends at Spice Chelsea.

6. My work schedule also required that I work six days per week; four days at Spice University, and two days at Spice Chelsea.

7. For approximately one month during this time, I was required to cover for absent employees, and I had to work an extra day from 11:00 am to midnight.

8. After December 2003, I have been required to work at only one location, Spice Chelsea.

9. Although I was hired as a full time delivery boy, whenever there are no deliveries, I have to perform other duties; such as preparing and cutting the vegetables, cleaning shrimp and calamari, cleaning the kitchen, washing the floors, and, once a week, washing the dishes.

10. As a delivery boy, I was required to buy a bicycle for my job at Spice.

11. My salary is about \$180 a week, which is paid in cash, when I worked six days per week; for the time period that I worked seven days per week, I was paid \$210.

12. Commencing in or about January 2006, I have been paid by check .

13. In addition to my wages, I also earn tips from Spice customers in the average amount of \$40 a day.

14. I never have had a specific time set aside for a meal break; I eat whenever the chef says I can, and I only have a few minutes to eat if I do not have to leave to make a delivery.

15. When I began working at Spice, I had to punch a time card at the start of the day and also at the end of the day.

16. The time cards were used to make deductions from my wages if I arrived late.

17. If I arrived 10 minutes late, Spice deducted \$5 from my salary, and if I arrived 15 minutes late, they deducted \$10 from my salary.

18. Later, the system changed and I had to punch in a code in a computer when I started work and at the end of the workday.

19. I was told by the chef that I had to punch in my code one hour and a half before the end of my work day.

20. From approximately February 2006, I have been required to work at both the Spice University and Spice Chelsea locations.

21. Spice requires that I work four days at Spice University and two days at Spice Chelsea.

22. Defendants give me separate paychecks for each location at which I work, and the checks incorrectly report my hours worked for each location.

23. On each of the paystubs for separate locations, defendants reported hours worked under separate social security numbers, which are arbitrarily selected by defendants.

24. I gave my tax identification number to the chef at Spice, and my correct tax identification number was never used in my pay records.

40 hours a week on my paychecks, but the total number of hours I worked was well over 40 hours a week.

26. Attached hereto as "Exhibit A" are copies of three paystubs I received for the week period ending on 2/5/06, which show me being paid separately for three locations, under three social security numbers arbitrarily chosen by Spice group, and not properly aggregating my hours for the week worked.

27. After May 2006, my schedule was reduced to 40 hours a week; on many weeks after that I worked more than 40 hours, but I never received any overtime pay.

28. I have witnessed Pui and Gorn, two Spice chefs, going into the computer that had my start and stop times, and changing the entries that appeared on the computer.

29. During the time I worked at Spice, I never saw a poster with information about the minimum wage and overtime laws.

30. Spice never informed me that they were going to take a tip credit towards my wages, and I never received overtime compensation for the hours I worked over forty per week.

31. During the time I worked at the different Spice restaurants, I met at least ten other delivery boys who worked about the same hours per week and had the same duties without being paid for hours worked over 40 hours per week.

Juan Mtz.

Juan Martinez

Sworn to before me
this 10th day of May 2008.

MICHAEL MAULACE
NOTARY PUBLIC NEW YORK
No. 02FA6120964
Qualified in New York County
Commission Expires January 03, 2009

EXHIBIT O

X

MARLON CASTRO, OCTAVIO RANGEL,
MARTIN VASQUEZ, ALFREDO MARTINEZ,
RODOLFO MENDEZ, GERARDO ANGULO, JUAN
MARTINEZ, JOSE CERVANTES, SERGIO
SANCHEZ, ISRAEL SANCHEZ, MARTINE PEREZ,
GUILLERMO MENDOZA, OMAR CASTILLO, and
AMANDO MARTINEZ, individually and on behalf of
others similarly situated,

07 CV 4657 (RWS)(DFE)

AFFIDAVIT OF
RODOLFO MENDEZ

**FLSA COLLECTIVE
ACTION**

Rule 23 Class Action

SPICE PLACE, INC., SPICE AVE., INC.,
BANGKOK PALACE II, INC., SPICE CITY, INC.,
SPICE WEST, INC., KITLEN MANAGEMENT,
INC., JUTTANA RIMREARTWATE,
THANADHAM THANEESAENG SIRI, KARNDA
VAJIRABANJONG, KEVIN LEATHERS,
KITTIGRON LIRTPANARUK, YONGYUT
LIMLEARTVATE, and YUANYONG
RIMREARTWATE,

ECF Case

Defendants.

X

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss.
)

Rodolfo Mendez, being duly sworn, says:

1. I am a plaintiff in this matter and submit this affidavit in support of plaintiffs' motion for collective action and class certification.
2. I am a resident of Queens County, New York.
3. I have worked as a delivery person at Spice Restaurant located at 60 University

Place from approximately March 2001 to the present day.

weekdays, and from 11 a.m. to 12:30 a.m. or 1 a.m. on Fridays; on Sundays I
worked from 4:00 p.m. until 11:30 p.m. or 12:00 a.m.

5. I had Saturdays off, except for many weeks throughout these years when, due to absence of other delivery persons, I was required to work seven days per week.
6. My schedule on Saturdays was from 11:00 a.m. until 12:30 a.m. or 1:00 a.m.
7. From 2005 until May 2006, I was reassigned to work on Saturdays and my day off became Sunday.
8. I have no formal lunch break, and when I try to eat I am often required to receive deliveries or deliver orders to customers.
9. Although I am a delivery person, Lenny, the restaurant owner, and Soy, the restaurant manager, have ordered me and all the other delivery persons to clean the basement storage area and hose the sidewalk each morning; every day we also carry supplies from the sidewalk to the basement storage area and stock it.
10. We also have to bring ingredients and supplies from storage to the kitchen, cut shrimp, calamari and chicken, and chop vegetables until many delivery orders came in late in the afternoon; only after 6:00 p.m. do I make deliveries.
11. At the end of each day, I and the other delivery boys have to take out the garbage, help put away food and supplies from the kitchen and clean the basement.
12. During the last 7 years, there have been at least 10 other delivery persons who worked the same schedule and had the same additional responsibilities that I have had at Spice University.

13. I was paid \$180 per week when I started, and received a raise to \$230 per week in 2002 and to \$240 about a year later.
14. I receive tips when I make deliveries, but I have never been informed that they are counted towards my pay.
15. The restaurant managers (Soy and Jean) always require me to split the larger tips with non-delivery employees in the restaurant including the cooks and the packers.
16. I was paid in cash until February or March 2006, when Spice began paying me by check.
17. Spice has never requested my social security number, and the social security numbers that have appeared on my paychecks were not provided by me.
18. I began working at Spice Chelsea three days per week and at Spice University three and four days per week from February to May 2006.
19. Starting in approximately February 2006, I was required to split my schedule between 60 University Place and the Chelsea location in order to not work more than 40 hours per week at either location.
20. During the time that I worked at both the University Place and Chelsea locations, I received two separate pay checks with two different social security numbers—one for the hours worked at Spice University, and one for the hours worked at Chelsea.
21. I complained to the restaurant managers about the non delivery duties that they required me to perform, and they responded that if I did not want to work do the other duties, I was free to leave the restaurant.

approximately late 2005 or early 2006, when I began recording hours by typing an identification number into a computer or swiping a card.

23. If I do not punch in or out, I am not paid for the day.

24. If I arrive 10 minutes late for work, Spice deducts \$5.00 from my wages; if I arrive 15 minutes late, they deduct \$10.00 from my wages.

25. After we changed from punch cards to the card swiping, Pui, the chef, ordered me and the other delivery persons to swipe our cards or enter our codes into the computer before 11:00 p.m. on weekdays and before 12:00 a.m. on Fridays and Saturdays, he informed us that he had orders from Lenny to have us do this.

26. I never saw any minimum wage posters at the restaurant until after we filed the complaint in the Department of Labor.

27. After May 2006, my schedule was reduced to FORTY hours a week.

28. On many weeks after MY SCHEDULE WAS REDUCED TO FORTY HOURS A WEEK, I worked more than 40 hours, but I always receive checks for forty or fewer hours.

29. I have personally seen Pui, the chef, going into the computer that had my start and stop times, and change the entries that appear on the computer.

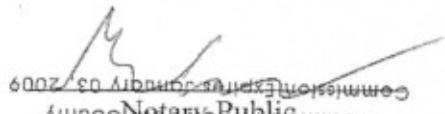
30. I was required to purchase a bicycle and cell phone with my own money.

31. My bicycle was stolen twice while I was doing deliveries, and I was required to replace it both times with my own money.



Rodolfo Mendez

Sworn to before me
this 12th day of April 2008.



Michael Faillace
NOTARY PUBLIC - STATE OF NEW YORK
No. 02FA6120964
Qualification No. 03-2009
Gannett Notary Public County
Notary Public
MICHAEL FAILLACE

EXHIBIT P

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MARLON CASTRO, OCTAVIO RANGEL,
MARTIN VASQUEZ, ALFREDO MARTINEZ,
RODOLFO MENDEZ, GERARDO ANGULO, JUAN
MARTINEZ, JOSE CERVANTES, SERGIO
SANCHEZ, ISRAEL SANCHEZ, MARTINE PEREZ,
GUILLERMO MENDOZA, OMAR CASTILLO, and
AMANDO MARTINEZ, individually and on behalf of
others similarly situated,

Plaintiffs,
-against-

SPICE PLACE, INC., SPICE AVE., INC.,
BANGKOK PALACE II, INC., SPICE CITY, INC.,
SPICE WEST, INC., KITLEN MANAGEMENT,
INC., JUTTANA RIMREARTWATE,
THANADHAM THANEESAENG SIRI, KARNDA
VAJIRABANJONG, KEVIN LEATHERS,
KITTIGRON LIRTPANARUK, YONGYUT
LIMLEARTVATE, and YUANYONG
RIMREARTWATE,

Defendants.

-----X
STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

Jose Cervantes, being duly sworn, says:

1. I am a plaintiff in this matter and submit this affidavit in support of plaintiffs' motion for collective action and class certification.
2. I am a resident of Queens County, New York.
3. I have worked as a delivery person at Spice Restaurant located at 75 2nd Avenue, New York ("Sea 2nd Avenue") from approximately September 2005 to the present day.

07 CV 4657 (RWS)(DFE)

AFFIDAVIT OF
JOSE CERVANTES

**FLSA COLLECTIVE
ACTION**

Rule 23 Class Action

ECF Case

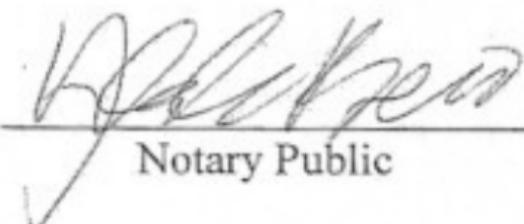
4. My working hours were from 11:00 am to 11:15 pm on Tuesdays and Wednesdays; 4:00 pm to 12:00 am on Thursdays; 11:00 am to 1:00 am or 1:30 am on Fridays and Saturdays; and from 11:00 am to 11:30pm or 12:00 am on Sundays; I had Mondays off.
5. In approximately December 2005, my day off was changed to Saturday, and I had to work Mondays from 11:00 am to 12:00 am.
6. Until approximately June 2006, I had no specified lunch break, and when I tried to eat, I was often required to receive deliveries or deliver orders to customers.
7. I am required to perform non-delivery boy duties for most of the day; at the start of my workday, I have to lay down the carpets on the floor of the kitchen and clean the sidewalk.
8. During the rest of the day, I have to receive deliveries, cut vegetables, prepare spring rolls and wash the basement.
9. If the restaurant receives any orders for delivery, I have to stop what I am doing and go make the delivery; when I return, I then have to continue chopping vegetables.
10. At the end of each day, we delivery boys have to wash the kitchen carpets, sweep and wash the kitchen floor and take out the garbage.
11. On most nights, I have to wait until all of the customers leave to take out the garbage; as a result, I have to stay for at least one to one and a half hours after I have finished all of my duties.
12. During my employment, there have been at least nine other delivery boys who have worked the same hours and who have the same additional responsibilities

13. I am paid \$10 for working the shift that starts from 11:00 am to 4:00 pm, and \$20 for the night shift.
14. I receive tips when I make deliveries, but I was never informed that they would be counted towards my salary.
15. I was paid in cash until February or March 2006, when Spice began paying me by check.
16. Spice did not ask me for a social security number until June 2005, and the social security number that appears on my paychecks was not provided by me.
17. Starting in approximately February 2006, I was required to split my schedule between the Sea 2nd Avenue location and Sea Brooklyn location.
18. Commencing February 2006, I worked three and a half days per week at Sea 2nd Avenue, and two days at Sea Brooklyn.
19. During this time, I received two separate paychecks with two different social security numbers—one for the hours worked at Sea 2nd Avenue, and one for the hours worked at Sea Brooklyn.
20. I am required to enter my start and stop times by typing an identification number into a computer.
21. If I do not punch in or out, I am not paid for the day.
22. If I arrive more than 15 minutes late, Spice deducts money from my paycheck.

23. On numerous occasions, the manager has ordered me and the other delivery boys to enter our codes into the computer at 11:00 p.m. on weekdays and at 12:00 a.m. on weekends despite our having to continue to work past those hours.
24. I never saw any minimum wage posters at the restaurant until after we filed the complaint in the Department of Labor.
25. At present, there is no such poster in Spanish.
26. After May 2006, my schedule was reduced to 40 hours a week but I still work over 40 hours and am not paid for overtime. [correct?]
27. I was required to purchase a bicycle and cell phone with my own money.
28. My bicycle was stolen twice, and I was required to replace it both times with my own money.

_____
Jose Cervantes

Sworn to before me
this 10th day of May 2008.



Notary Public

YOLANDA RIVERO
Notary Public, State of New York
No. 02R16061584
Qualified in Queens County
Commission Expires July 16, 20____